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The Dow Chemical Company
Midland, Michigan 48674

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VIA FEDERAL EXPRESS

Mr. Mike Leavitt, Administrator
U.S. Environmental Protection Agency
P.O. Box 1473
Merrifield, VA 22116

Charles M. Auer
U. S. EPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue NW
Washington, DC 20460

ATTENTION CHEMICAL RIGHT-TO-KNOW PROGRAM: HPV CHALLENGE

The Dow Chemical Company received a letter from Mr. Wardner Pemberthy dated September 9, 2004, responding to our letters dated December 1, 1999, in which Dow requested "indicator 1" designation for five substances produced by Dow which are also registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). We requested this designation because hazard information consistent with, and exceeding that, required by the EPA HPV Challenge was already publicly available. References were provided to the location of the publicly available information at the EPA Office of Pesticide Programs. EPA describes application of indicator 1 designations to the EPA HPV list as follows: "Indicator 1 is applied to HPV substances where testing using the SIDS base set would not further our understanding of the chemical's properties."

Dow continues to believe "Indicator 1" is appropriate for our FIFRA registered substances.

Because these substances are used as intermediates in the production of other FIFRA registered pesticides, these substances are listed on the TSCA Inventory and intermediate production reported for the TSCA Inventory Update Rule. Exposures to these substances, when they are used as intermediates, will be less than exposures that occur under their FIFRA registered uses.

We are disappointed by the Agency's decision to reject this request because of a position that chemicals tested and approved under other Federal Agency programs may contain data gaps in areas which are elements of the HPV Challenge Program, and the data supporting the registration of chemicals under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) may not be publicly available because of confidentiality claims.

We do not believe these statements apply to any of the five FIFRA regulated substances produced by Dow.

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Mr. Mike Leavitt, Administrator

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The purpose of this letter is to communicate that The Dow Chemical Company and its subsidiary, Dow AgroSciences, will provide publicly available hazard information for the substances listed below to the EPA HPV Challenge. We are disappointed that we must duplicate information submitted to EPA for public release, especially as this distracts resources that could otherwise be deployed for addressing more serious threats to human health and the environment.

Dow continues to be an active supporter of the EPA HPV Challenge and has volunteered as a company or as a member of consortia with other producers to provide hazard information for more than 180 TSCA chemical identities. Dow hopes the Agency will review its initial decision on the FIFRA substances identified below for which Dow will provide HPV Challenge hazard information:

Chemical Name	CASRN
Ortho-phenyl phenol	90-43-7
1,3-dichloropropene	542-75-6
2,4-dichlorophenoxyacetic acid	94-75-7
4-amino-3,5,6-trichloropicolinic acid	1918-02-1
2-chloro-6-(trichloromethyl)-pyridine	1929-82-4

Sincerely,

Linda C. Burgert
EH&S Product Regulatory Management
PH: 989-636-1011
FAX: 989-638-9933
E-MAIL: lburgert@dow.com

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